

**5:30-17**  
**ELECTRONIC DISBURSEMENT CONTROLS FOR PAYROLL PURPOSES**

**5:30-17.1 Purpose**

This rule sets forth standards for local governments to follow when contracting with an organization to make disbursements on the local unit's behalf, as permitted by N.J.S.A. 52:27D-20.1. The rule is intended to ensure that local units understand the risks associated with electronic disbursements and implement sound fiscal and control practices governing such disbursements. This rule is limited in application to third-party preparations and calculations for and the disbursement of salaries and wages, all withholdings, and additional related liabilities.

**5:30-17.2 Definitions**

The following words and terms, as used in this rule, shall have the following meanings, unless the context clearly indicates otherwise:

*"Chief Financial Officer"* or "CFO" means the individual statutorily responsible for supervising the accounts and finances of a local unit and shall include any certifying and approval officer appointed pursuant to N.J.S.A. 40A:5-17(a), any individual appointed in accordance with N.J.S.A. 18A:19-4.1, or such individual in similar capacity legally appointed by the governing body of a local unit.

*"Contract"* means any written agreement entered into by a local unit and a disbursing organization for the purposes authorized in these rules.

*"Dedicated cash account"* means a demand deposit bank account owned by the local unit and funded solely for use by a disbursing organization in performing its duties and responsibilities in accordance with the contract.

*"Disbursement"* means any payment of moneys, including any transfer of funds, by any means, to the dedicated cash account established for use by a disbursing organization.

*"Governing body"* means the board, commission, council or other body having control of the finances of the local unit. In those local units in which a chief executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such chief executive officer to the extent of such participation.

*"Local unit"* means a municipality, county, school district, authority subject to the "Local Authorities Fiscal Control Law," P.L. 1983, c. 313 (N.J.S.A. 40A:5A-1 et seq.), or a school district as defined in N.J.S.A. 18A:18A-2(d).

*"Payment documentation"* includes transmittals, remittance forms, tax returns, releases, filings, reports, and tapes supporting the disbursement of funds.

*“Payroll”* means the object and result of all preparations and calculations for, and the disbursement of salaries and wages, all withholdings therefrom, and additional liabilities related thereto.

*“Third-party disbursement service organization or disbursing organization”* means an organization engaged either directly or indirectly to perform any of the services indicated in these rules.

*“Third-party disbursement service”* means such service or services of the type described in these rules. Such service or services may include the processing and disbursing of payroll and payroll agency obligations.

*“Transaction”* means any activity that, in accordance with sound fiscal practices, affects the general books of entry, ledgers, records, or logs of a local unit.

### **5:30-17.3 Authorization to use a third-party disbursement service organization for payroll**

(a) The governing body of a local unit may enact policies for contracting with a disbursing organization to process payroll disbursements on its behalf. Such policies shall be formally authorized by ordinance or resolution of the governing body, as appropriate to the form of government and shall specify the tasks that may be performed by a disbursing organization. Such policies may involve the use of a disbursing organization:

1. To prepare the necessary payment documentation and execute disbursements from the local unit’s bank account on behalf of the local unit; or
2. To prepare payment documentation, take possession of local unit funds, and make such disbursements itself on behalf of a local unit; or
3. Any combination of paragraphs 1 and 2 above.

(b) This subchapter applies to disbursing organizations and local units who contract with one another for the determination and disbursement of payroll and related funds. Payroll service providers that perform payroll calculations and do not control either directly or indirectly the disbursement of payroll funds are not required to comply with these rules.

### **5:30-17.4 Local unit requirements**

Local units must meet the following terms and conditions prior to executing contracts with disbursing organizations:

#### **(a) Governing body responsibilities – Approvals**

1. Prior to the execution of a contract with a disbursing organization, the governing body shall approve the use of disbursing organizations for the payment of claims pursuant to N.J.A.C. 5:30-17.3(a). Such approval must describe those tasks to be performed by a disbursing organization to meet the governing body’s objectives, including specific authorization to use electronic means for

the disbursing of funds. Permissible tasks can include and is not limited to data collection, agency report preparation, calculation of withholding, direct deposit of payroll disbursements, or local unit transfer of funds to disbursing organization's account for subsequent payment.

2. The governing body shall, by resolution, approve any renewal or extension of a contract under this subchapter.

(b) Governing body supervisory responsibility and payment of claims

1. Pursuant to N.J.S.A. 40A:5-17(a)(1) or 18A:19-4.1, the governing body shall designate an approval officer to be responsible for authorizing and supervising the activities of the disbursing organization. For authorities operating under N.J.A.C. 5:31-4.1, the governing body shall designate an approval officer to authorize and oversee the activities of disbursing organizations.
2. The governing body shall supplement the duties of the approval officer established in accordance with N.J.S.A. 40A:5-17(a)(2) and 18A:19-4.1 to include the reconciliation and analysis of all general ledger accounts affected by the activities of the disbursing organization.
3. If the terms of the contract between the disbursing organization and the local unit provide that the disbursing organization will hold funds of the local unit pending transmittal of those funds to a payee, the governing body must specifically authorize the disbursing organization to hold the funds pending transmittal.
4. The governing body shall require the disbursing organization to provide the governing body with notification in the event:
  - i. The disbursing organization detects irregularities that may indicate potential fraud, noncompliance with appropriate laws, dishonesty, or gross incompetence on the part of the approval officer; or
  - ii. The disbursing organization experiences circumstances that could jeopardize its ability to continue operations or otherwise interrupt the services provided to the local unit.
5. A transfer of local unit funds between local unit accounts, to a dedicated cash account or to an account owned or controlled by a disbursing organization:
  - i. Shall be deemed a disbursement subject to the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq.; and
  - ii. Is to be treated as in compliance with N.J.S.A. 18A:19-9 for school payrolls.

(c) CFO Responsibilities

1. After the governing body has initially approved the use of disbursing organizations pursuant to N.J.A.C. 5:30-17.3 and 17.4(a) above, the CFO shall qualify disbursing organizations pursuant to the requirements of section 17.5.

2. Prior to the execution of any contract for the provision of third-party disbursement services, the contract shall be reviewed and approved by the CFO of the local unit as to terms, including satisfaction of the requirements of sections 17.5, 17.6 and 17.7.
3. Prior to the extension or renewal of a contract, the CFO shall complete a review of the services rendered under the contract. Such review shall be conducted in compliance with section 17.5 of this rule.

#### **5:30-17.5 Eligibility requirements for disbursing organizations**

Disbursing organizations shall meet the following conditions and/or requirements:

(a) The disbursing organization must provide evidence of satisfactory internal control, evidence of which shall be required by the CFO. Such evidence may be:

1. The disbursing organization's Report on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness, performed pursuant to American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70; or
2. A completed SysTrust™ examination with an unqualified report on Availability, Security, Integrity and Maintainability completed in accordance with the AICPA/CICA SysTrust™ Principles and Criteria for Systems Reliability; or
3. Evidence of compliance with a mutually agreed upon external standard for determination of the sufficiency of a system of internal controls that support the work to be performed in accordance with the policies established by the local unit.

(b) All disbursing organizations must have offices within a distance acceptable to the CFO of the local unit such that the physical delivery and receipt of documents and records can occur on the same day.

#### **5:30-17.6 Contract terms and conditions**

(a) All contracts between a local unit and disbursing organization must:

1. Contain adequate provisions to indemnify the local unit against any losses incurred as a result of the actions or inactions of the disbursing organization;
2. Require the disbursing organization to be responsible for the errors and omissions of its employees or agents, particularly where those errors and omissions prevent timely disbursements on behalf of the local unit from being made, including penalties, fines, interest, and damages; and,
3. In those cases where the disbursing organization takes possession of local unit funds, require adequate insurance to cover such losses as may arise as a result of errors, omissions, failure to perform or dishonesty in amounts at least equal to the highest level of exposure to the local unit for 30 days. Such exposure as regards cash shall be based on at least the amount of money accessible by the

disbursing organization during said 30 day period and shall not include moneys that the disbursing organization cannot divert to its own benefit.

(b) All disbursing organizations shall have a written complaint procedure in existence. At a minimum, the complaint procedure shall require that a complaint log be maintained, which shall be available to the local unit for inspection.

(c) Upon reasonable notice, the disbursing organization shall allow an independent auditor compensated by the local unit to examine its internal controls applying SAS 70 standards, SysTrust™ standards or other standards and procedures mutually agreed upon to ensure accurate, complete and timely work product. Upon completion, the independent auditor's report shall be provided to the CFO and governing body and shall be for internal use only.

(d) All disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered mail. All contracts must have appropriate provisions for:

- i. Dispute resolution between the parties;
- ii. The service of process to the disbursing organization in New Jersey; and,
- iii. Application of New Jersey law.

(e) Within five working days of each disbursement on behalf of a local unit, the disbursing organization shall provide to the CFO, reports and documentation supporting the disbursements. The contract shall also specify the information required by the local unit to enable it to reconcile its books and records.

(f) All corrections and adjustments must be completed and provided to the local unit promptly. All adjustments and reports of adjustments resulting in disbursements must be reported consistent with the provisions of subsection 17.6(e).

(g) Copies of notices, memoranda, complaints or other correspondence received by the disbursing organization regarding local unit accounts shall be forwarded to the local unit within 48 hours of receipt.

(h) Contracts for third-party disbursement services are not data processing service contracts under N.J.S.A. 40A:11-15(5) and 18A:18A-42(d).

(i) All contracts for third-party disbursement services shall have appropriate provisions for termination of the contract, including, but not limited to termination for failure to perform on the part of the disbursing organization.

(j) All contracts entered into between local units and disbursing organizations for the provision of third-party disbursement services shall be in writing and executed by all parties, including intermediaries, such as banks providing payroll services as part of a compensating balance agreement.

(k) The contract for third-party disbursement services must require that no disbursement is made unless the demand for payment meets the requirements of N.J.S.A. 40A:5-16, 18A:19-2 and this subchapter.